

UNITED STATES OF AMERICA
DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL NO. 05-CR-10227-PBS

UNITED STATES OF AMERICA

V.

RAFAEL HEURTA

MOTION CONTINUE RULE 11 HEARING

Now comes defendant Rafael Heurta and moves this Honorable Court to enter an order continuing the Rule 11 hearing and final status conference scheduled for September 27, 2006 to October 30, 2006, the scheduled trial date. Alternatively, the defendant requests a continuance to a date after September 28, 2006, which is mutually convenient to the Court and the parties.

In support of this motion, the defendant contends that it is his intent, pursuant to F.R.Crim.P. 11(a)(2), to plead guilty to the pending drug charges while saving his right to appeal the Court's denial of so much of his motion to suppress which was denied by the Court. It is not his intent to plead guilty to the firearms charge. There is a trial scheduled for October 30, 2004 on the firearms charge.

Due to defense counsel's schedule and defense counsel's secretary/interpreter's vacation, defense counsel has been unable to visit the defendant with an interpreter at the facility in Rhode Island where he is detained. The next

opportunity defense counsel will have to visit the defendant with an interpreter is Thursday, September 28, 2006.

The defendant will be admitting to charges which carry a minimum sentence of ten years. Even after the defendant is found not guilty of the firearms charge, his best case guideline calculation will be seventy months. The defendant has been detained for fourteen and one-half months.

The government does not oppose this request. It is the defendant's and the government's position that no time between September 27, 2006 and any rescheduled Rule 11 hearing should count for purposes of determining whether the defendant has received a speedy trial.

**Respectfully Submitted,
RAFAEL HEURTA,**

By his attorney:

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